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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,075	02/17/2004	Matthias Goldbach	P2001,0273	9490
24131	7590	12/08/2005		EXAMINER
LERNER AND GREENBERG, PA				PHAM, HOAI V
P O BOX 2480			ART UNIT	PAPER NUMBER
HOLLYWOOD, FL 33022-2480			2814	

DATE MAILED: 12/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/780,075	GOLDBACH ET AL.
	Examiner	Art Unit
	Hoai v. Pham	2814

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 20 September 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 135 is/are pending in the application.  
 4a) Of the above claim(s) 1-8, 11 and 15-35 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 8-10 and 12-14 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. 10/131,358.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election of claims 8-10 and 12-14 in the reply filed on September 20, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation of claim 12 renders the claim indefinite since only the conductive layer of upper electrode is formed of metal.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 8-10 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Sato et al. [U.S. Pat. 6,552,380].

With respect to claim 8, Sato et al. (fig. 1D, cols. 5-6) discloses a storage capacitor, comprising:

a lower capacitor electrode (in a substrate 1 not shown);

a storage dielectric (5); and

an upper capacitor electrode (6);

at least one of said lower and upper capacitor electrodes being a conductive layer;

a doped layer selected from the group consisting of a SiGe layer (7) disposed on a side of said conductive layer (6) remote from said storage dielectric (5); and

wherein a doped SiGe layer (7) is not disposed between said storage dielectric (5) and said upper capacitor electrode (6).

With respect to claim 9, Sato et al. (col. 1, lines 14-20) discloses that the storage capacitor configured to form a part of a DRAM memory cell.

With respect to claims 10 and 14, Sato et al. (col. 6, lines 1-13) discloses that the dopant distribution with a gradient for said SiGe layer is selected from the group consisting of B and P.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al. [U.S. Pat. 6,552,380] in view of Hantangady et al. [U.S. Pat. 6,335,238].

Sato et al. substantially discloses all the limitations as claimed above except the conductive layer of the upper electrode is formed of a material selected from the group consisting of metal silicide, metal nitride, metal carbide, WN, WSiN, WC, TiN, TaN, and TaSiN and the storage dielectric contains a material selected from the group consisting of silicon nitride, silicon dioxide, silicon oxynitride, metal oxide, aluminum oxide,  $Pr_2O_3$ ,  $Nd_2O_3$ ,  $Al_2O_3$  with an addition of Hf, Zr, Y or La. However, Hantangady et al. discloses that these materials metal nitride (TiN) and metal oxide ( $Ta_2O_5$ ), and their uses are well

known in the art for forming the upper electrode (48) and the storage dielectric (46) respectively (see col. 6, lines 22-35). Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to select metal nitride (TiN) and metal oxide (Ta<sub>2</sub>O<sub>5</sub>) as known materials, as taught by Hantangady et al., into the device of Sato et al. to form the upper electrode and the storage dielectric respectively since metal oxide (Ta<sub>2</sub>O<sub>5</sub>) would have high permittivity and metal nitride (TiN) would provide a better conductor. Moreover, selection of a known material based on its suitability for its intended use supported a *prima facie* obviousness determination in *Sinclair & Carroll Co., Inc. v. Interchemical Corp.*, 325 U.S. 327, 65 USPQ 297 (1945).

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoai v. Pham whose telephone number is 571-272-1715. The examiner can normally be reached on M-F.
10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael M. Fahmy can be reached on 571-272-1705. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



HOAI PHAM  
PRIMARY EXAMINER